

(b) The boundary of the Baltimore Marine Inspection Zone and Captain of the Port Zone starts at a point of 75°30' W. longitude on the Delaware-Maryland boundary and proceeds along the Delaware-Maryland boundary west and north to the Pennsylvania boundary; thence west along the Pennsylvania-Maryland boundary to the West Virginia boundary; thence southerly and easterly along the Maryland-West Virginia boundary to the Virginia boundary; thence southeasterly along the Maryland-Virginia boundary and the District of Columbia-Virginia boundary as those boundaries are formed along the southern bank of the Potomac River; thence easterly along the Maryland-Virginia boundary as it proceeds across the Chesapeake Bay, Tangier and Pocomoke Sounds, Pocomoke River, and Delmarva Peninsula to a point 75°30' W. longitude on the Maryland-Virginia boundary; thence northerly to a point 75°30' W. longitude on the Delaware-Maryland boundary.

§ 3.40-25 [Removed]

5. Section 3.40-25 is removed.

6. Section 3.40-28 is added to read as follows:

§ 3.40-28 Houston-Galveston Marine Inspection Zone and Captain of the Port Zone

(a) The Houston-Galveston Marine Inspection Office and the Captain of the Port Office are located in Houston, Texas. The Galveston Marine Safety Unit is a subordinate unit of the Marine Safety Office and is located in Galveston, Texas.

(b) The boundary of the Houston-Galveston Marine Inspection Zone and Captain of the Port Zone starts at the intersection of the sea and 94°23' W. longitude; thence proceeds north along 94°23' W. longitude to 30°00' N. latitude; thence west along 30°00' N. latitude to the east bank of the Trinity River; thence northerly along the east bank of the Trinity River; thence northwesterly along the eastern shore of Lake Livingston; thence northwesterly along the east bank of the Trinity River to the southern boundary of Dallas County, Texas; thence westerly along the southern boundary of Dallas County, Texas to 97°00' W. longitude; thence north along 97°00' W. longitude to the Texas-Oklahoma boundary; thence northwesterly along the Texas-Oklahoma boundary; thence north along the New Mexico-Oklahoma boundary; thence west along the New Mexico-Colorado boundary; thence south along the New Mexico-Arizona boundary; thence easterly along the southern boundary of New Mexico to the

southeast corner of New Mexico at 32°00' N. latitude; thence southeasterly to 29°18' N. latitude, 96°07' W. longitude on the east bank of the Colorado River; thence southerly along the east bank of the Colorado River to the sea; thence along a line bearing 140°T to the outermost extent of the EEZ; thence easterly along the outermost extent of the EEZ to 93°25' W. longitude; thence north to 27°49' N. latitude, 93°25' W. longitude; thence northwesterly to 29°30' N. latitude, 93°48' W. longitude; thence westward following a line 10.3 nautical miles from the coast to 29°24' N. latitude, 94°20' W. longitude; thence northwesterly to the coast at 94°23' W. longitude.

§ 3.40-30 [Removed]

7. Section 3.40-30 is removed.

Dated: December 19, 1995.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95-31375 Filed 12-27-95; 8:45 am]

BILLING CODE 4910-14-M

46 CFR Part 16

[CGD 95-090]

RIN 2115-AF25

Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel; Delay of Implementation Dates

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is delaying the effective date of regulations governing drug testing, insofar as those regulations would require testing of persons onboard U.S. vessels in waters that are subject to the jurisdiction of a foreign government. Under this final rule, the Coast Guard continues to delay the effective date for foreign implementation until January 2, 1997, to allow completion of a permanent change to the regulations affecting foreign implementation of its drug testing rules.

EFFECTIVE DATE: December 28, 1995.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Executive Secretary, Marine Safety Council (G-LRA/3406), U.S. Coast Guard Headquarters, 2100 Second Street SW., room 3406, Washington, DC 20593-0001 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Lieutenant Jerry Hilton, Project Manager, Office of Marine Safety, Security and Environmental protection, and Christena Green, Project Counsel, Office of Chief Counsel.

Background and Purpose

On November 21, 1988, the Coast Guard, along with other agencies of the Department of Transportation (DOT), adopted regulations requiring pre-employment, post-accident, reasonable cause, and random drug testing. Those individuals required under Federal law or regulation to have periodic medical examinations were also required to undergo a drug test at the same time. The drug testing required by the rule applies to some persons located outside of the United States. However, the rules provided that they would not apply outside the United States in any situation in which application of the rules violated foreign local laws or policies.

At the same time, the Coast Guard stated that the DOT and other elements of the government would enter into discussions with foreign governments to attempt to resolve any conflict between our rules and foreign government laws or policies. The Coast Guard stated that if, as a result of those discussions, it was found that amendments to the rule were necessary, timely amendments would be issued. An amendment was issued on December 21, 1989, and published on December 27, 1989 (54 FR 53286). Under that amendment, drug testing for persons onboard U.S. vessels in waters subject to the jurisdiction of a foreign government was scheduled to begin by January 2, 1992. A final Rule was published on April 24, 1991, delaying the implementation date to January 2, 1993 (56 FR 18982); a Final Rule was published on July 14, 1992, delaying the implementation date to January 2, 1995 (57 FR 31274); and another Final Rule was published on December 20, 1994, delaying the implementation date to January 2, 1996 (59 FR 6500).

During the past few years, discussions with other countries have been held, and the difficulty of achieving effective bilateral agreements has become clear. Although the Coast Guard could allow its regulations to take effect in foreign

waters, the Coast Guard continues to recognize that: (1) It would be difficult for U.S. carriers to effectively implement the regulations without cooperation from foreign governments; (2) in response, foreign governments could impose restrictions on U.S. operations; and, perhaps most importantly, (3) there are distinct advantages to be gained in aligning foreign measures and U.S. measures, especially as they relate to international transportation operations.

For these reasons, the Coast Guard has proposed not to require testing under part 16 in waters subject to the jurisdiction of a foreign government [CGD95-011; 60 FR 43426; August 21, 1995]. The comment period on that NPRM ended October 20, 1995.

In order to allow time to further consider these issues and to formulate a final decision, the Coast Guard has again determined that additional time is necessary. Another delay of approximately one year should provide sufficient time to complete the rulemaking on foreign applicability. Accordingly, the Coast Guard has determined to postpone again the date by which testing programs would commence for persons onboard U.S. vessels in waters that are subject to the jurisdiction of a foreign government.

This final rule delays the applicability of the regulations where they may conflict with foreign law or policy. This rule imposes no additional burdens on the regulated industry. Without this delay in the implementation date, persons onboard U.S. vessels in waters that are subject to the jurisdiction of a foreign government would become subject to the requirements of part 16 on January 2, 1996. Delaying the implementation date ensures that the applicability of part 16 will continue unchanged. Accordingly, the Coast Guard finds that good cause exists under 5 U.S.C. 553(b) to publish this rule without notice and comment and to make this rule effective less than 30 days after publication in the Federal Register.

Regulatory Evaluation

This final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 CFR 11034; February 26, 1979). The economic impact of these changes is so minimal that further evaluation is not

necessary. This final rule modifies the effective date for compliance with Coast Guard regulations governing drug testing, insofar as those regulations would require testing of persons onboard U.S. vessels that are subject to the jurisdiction of a foreign government. It does not change the basic regulatory structure of that rule.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the regulatory flexibility requirements. Although exempt, the Coast Guard has reviewed this rule for potential impact on small entities.

The amendment in this final rule only extends a compliance date, and imposes no costs on affected entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This rule contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

The Coast Guard has analyzed this rule in accordance with the principles and criteria contained in Executive Order 12612 and has determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The authority to require programs for chemical drug and alcohol testing of commercial vessel personnel has been committed to the Coast Guard by Federal statutes. This final rule does, therefore, preempt State and local regulations regarding drug testing programs requiring the testing of persons onboard U.S. vessels in waters that are subject to the jurisdiction of a foreign government.

Environment

The Coast Guard has considered the environmental impact of this final rule, and has concluded that, under section 2.B.2.e(34)(c) of Commandant Instruction M16475.1B, it is

categorically excluded from further environmental documentation. This final rule merely extends an implementation date and clearly has no environmental impact.

List of Subjects in 46 CFR Part 16

Drug testing, Marine safety, Reporting and recordkeeping requirements, Safety, Transportation.

For the reasons set forth in the preamble, the Coast Guard amends 46 CFR part 16 as follows:

PART 16—CHEMICAL TESTING

1. The authority citation for part 16 continues to read as follows:

Authority: 46 U.S.C. 2103, 3306, 7101, 7301 and 7701; 49 CFR 1.46.

2. In § 16.207, paragraph (b) is revised to read as follows:

§ 16.207 Conflict with foreign laws.

* * * * *

(b) This part is not effective until January 2, 1997, with respect to any person onboard U.S. vessels in waters that are subject to the jurisdiction of a foreign government. On or before December 1, 1996, the Commandant shall issue any necessary amendment resolving the applicability of this part to such person on and after January 2, 1997.

Dated: December 20, 1995.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 95-31370 Filed 12-27-95; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 950605147-5288-03; I.D. 112895A]

RIN 0648-AH33

Final List of Fisheries for 1996

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: In accordance with the Marine Mammal Protection Act of 1972, as amended (MMPA), NMFS publishes its MMPA final List of Fisheries (LOF) for 1996. The LOF classifies fisheries as either Category I, II, or III, based on their